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HUMAN RIGHTS COMMITTEE

Forty-first session

SUMMARY RECORD OF THE 1037th MEETING

Held at Headquarters, New York,
on Monday, 25 March 1991, at 10.30 a.m.

Temporary Chairman: Mr. HOUSHMAND (Representative of the Secretary-General)

Chairman: Mr. POCAR

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The meeting was called to order at 10.55 a.m.

OPENING OF THE SESSION BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL

1. The TEMPORARY CHAIRMAN declared open the forty-first session of the Human Rights Committee.

2. Speaking on behalf of the Secretary-General, he said that there had been a number of developments within the United Nations of special interest to the Committee since the fortieth session. The General Assembly had, at its forty-fifth session, adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and a committee would be established under that Convention following its entry into force. Also at its forty-fifth session, the General Assembly had adopted a number of resolutions on human rights issues, including resolution 45/85 dealing with the effective implementation of international human rights instruments and the functioning of bodies established in accordance with those instruments. In that resolution, the General Assembly had reiterated its earlier invitation to treaty-monitoring bodies to give priority attention to identifying possible technical assistance projects in the regular course of their work of reviewing periodic reports of States parties. In addition, the General Assembly had given its endorsement to the conclusions and recommendations of the third meeting of persons chairing human rights treaty bodies, and had decided to revert to them at its forty-sixth session in the light of the deliberations of the Commission on Human Rights at its forty-seventh session.

3. Progress had been made in implementing a number of the recommendations made by the persons chairing human rights treaty bodies. The Secretary-General would shortly be transmitting the consolidated guidelines to all States parties, which would be requested to submit the required information to the Secretariat in a "core document" by the end of 1991. In due course, each human rights treaty body would no doubt wish to consider taking formal action to modify its own reporting guidelines to reflect the introduction of the consolidated guidelines, which covered the initial part of State party reports. The manual on reporting, prepared in collaboration with UNITAR, would be circulated to States parties, and the necessary approval had been given by the Economic and Social Council and by the General Assembly for financing the annual recurrent costs of the computerized database; the Secretary-General was seeking voluntary contributions from Member States to cover the initial costs associated with installing the system.

4. The General Assembly, by its resolution 45/155, had given final approval to the convening in 1993 of a World Conference on Human Rights, the main purpose of which would be to review and assess progress made in the field of human rights since the adoption of the Universal Declaration of Human Rights, to examine the relation between development and the enjoyment by everyone of economic, social and cultural rights as well as civil and political rights, and to evaluate the effectiveness of the United Nations human rights procedures and mechanisms with a view to improving them and improving the implementation of existing human rights standards and instruments. The Under-Secretary-General for Human Rights had been appointed as Secretary-General of the World Conference.

(The Temporary Chairman)

5. Broad consultation would be required to prepare the Conference, and the first meeting of its Preparatory Committee would be held at Geneva in September 1991. The contribution of the Human Rights Committee to the preparations for the the World Conference would be of great importance; indeed, General Assembly resolution 45/155 had expressly encouraged the Chairman or other designated members of human rights expert bodies to take part in the work of the Preparatory Committee. The Commission on Human Rights, in its resolution 1991/30, had recommended that the Preparatory Committee should consider how the World Conference and its preparatory process could work towards improving implementation of existing human rights standards and instruments, evaluating and formulating specific recommendations aimed at improving methods and mechanisms used by the United Nations in the field of human rights and ways and means of minimizing duplication. A detailed evaluation of the work of each of the treaty-monitoring bodies should be prepared by individual experts as part of the background documentation for the World Conference.

6. Turning to the Convention on the Rights of the Child, the number of States parties which currently stood at 76, he reported that the Centre for Human Rights had convened a two-day consultation meeting at Geneva in January 1991 for the purpose of consulting all major international agencies and organizations whose programmes were relevant to the objectives of the Convention. The meeting had resulted in the adoption of a wide range of recommendations and proposals which would in due course be brought to the attention of the Committee on the Rights of the Child. Arrangements were being made to hold an informal meeting at Geneva in May 1991 between representatives of the various agencies and other United Nations bodies and the elected members of the Committee to brief the latter on each organization's respective area of competence and potential for assisting the Committee. The Centre for Human Rights was also planning to discuss with interested non-governmental organizations the contributions they might make to implementing the provisions of the Convention and assisting the work of the Committee on the Rights of the Child. Ten experts had been elected at a meeting of States parties to the Convention held at New York in February 1991 to serve as members of the Committee, whose first session was tentatively scheduled to be held at Geneva in September 1991.

7. The Commission on Human Rights, in its resolution 1991/20, had welcomed the comments of the Human Rights Committee on the independent experts' study relating to long-term approaches to improving the operations of treaty-monitoring bodies. The Commission had also requested the Secretary-General to consider establishing a "committee resource room" at the Centre for Human Rights to facilitate the work of treaty-monitoring bodies by providing them with broader and more convenient access to various sources of information. It also requested him to ensure that the recent periodic reports of States parties to treaty-monitoring bodies and the summary records relating to the discussion of them by the Committees concerned be made available at the United Nations information centres serving the countries which had submitted those reports.

8. The Committee on Economic, Social and Cultural Rights, at its most recent session in November-December 1990, had recommended that a meeting be held, perhaps

(The Temporary Chairman)

in 1992, between one or two representatives each from the Human Rights Committee, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights itself to discuss matters of mutual interest related to the protection of the rights of the child, including the most appropriate approaches to the supervision of overlapping treaty obligations. That Committee had also decided to schedule for consideration at its forthcoming session a draft general comment relating to the principle of non-discrimination.

9. The Committee on the Elimination of Racial Discrimination, at its thirty-ninth session, had considered the question of submission of reports by States parties, and had taken a decision which would be of interest to all other treaty-monitoring bodies. It had decided to inform a selected number of States parties with several overdue reports, in letters addressed to them by the Chairman of the Committee, that it would at its forthcoming session undertake a review of the implementation of the Convention in their countries on the basis of their latest reports, the records of the consideration of those reports by the Committee, and any other information available to the Committee in relation to the countries in question. The States parties concerned would be invited to designate representatives to participate at meetings of the Committee when such a review was undertaken and to furnish the Committee with all subsequent relevant information. Such a review would form part of the Committee's activities and would be reflected in its annual report to the General Assembly.

10. Finally, he said that the Centre for Human Rights had, under its advisory services and technical assistance programme, organized, in December 1990, in collaboration with the Government of India, a national workshop on the rights of the child, with particular emphasis on the girl child, and had taken an active part in the World Congress for Human Rights held in New Delhi, India, in December 1990. The Centre had conducted a training course in San Remo, Italy, on the implementation of international human rights instruments and the administration of justice for officials of French-speaking African countries. It was planning to organize a regional workshop on the administration of justice and human rights for African countries, in Cairo, Egypt, and a European workshop on the implementation of international human rights standards, in Barcelona, Spain. National training courses on the application of United Nations human rights mechanisms and procedures would be held in Caracas, Venezuela, and other venues later in 1991. At the request of a number of Eastern European States, the Centre was considering the possibility of establishing documentation and training centres in those countries with a view to assisting them in their efforts to promote respect for human rights and fundamental freedoms.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE IN ACCORDANCE WITH ARTICLE 38 OF THE COVENANT

11. Mr. Dimitrijević, Mr. El-Shafei, Mr. Herndl, Mr. Ndiaye, Mr. Prado Vallejo, Mr. Sadi and Mr. Wennergren solemnly undertook to discharge their duties as members of the Human Rights Committee impartially and conscientiously.

ELECTION OF THE CHAIRMAN AND OTHER OFFICERS OF THE COMMITTEE

12. Mr. LALLAH nominated Mr. Pocar for the office of Chairman of the Committee; Mr. Dimitrijević, Mr. Wako and Mr. Aguilar for the offices of Vice-Chairmen; and Mr. Ando for the office of Rapporteur. He observed that his nominations reflected the consensus of the Committee.

13. Mr. PRADO VALLEJO and Mr. MYULLERSON seconded the nominations.

14. Mr. Pocar was elected Chairman, Mr. Dimitrijević, Mr. Wako and Mr. Aguilar were elected Vice-Chairmen, and Mr. Ando was elected Rapporteur by acclamation.

15. Mr. Pocar took the Chair.

ADOPTION OF THE AGENDA (CCPR/C/71)

16. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS

17. The CHAIRMAN drew attention to the provisional programme of work distributed to the members of the Committee.

18. Mrs. HIGGINS expressed concern that too few meetings had been allocated for the consideration of communications under the Optional Protocol to the Covenant and that the matter would be taken up only very late in the session. She asked whether the afternoon meeting currently set aside at the end of the second week for a discussion of draft general comments could be devoted instead to communications.

19. Ms. CHANET said that the Committee had two draft general comments to discuss and that the discussion should not be deferred. If anything, ever more time might be required than what was currently allocated.

20. Mr. MYULLERSON said that, while the draft general comments were important, more time should be devoted to communications, as had been suggested.

21. Mr. LALLAH said that the Committee should discuss the draft general comments. However, communications should be considered earlier in the session. Perhaps the Committee could complete its consideration of the report of Sweden in only two meetings, thus leaving an additional meeting for the consideration of communications. In that connection, he asked whether all the States parties had agreed to the specific reporting dates listed in the programme of work.

22. Ms. KLEIN (Secretary of the Committee) said that India, Sweden, the United Kingdom and Panama had firmly committed themselves to the dates listed and informed the Committee of the composition of their delegations. Sri Lanka had confirmed that it would send a delegation but the secretariat had not yet received information on its composition.

23. Mr. DIMITRIJEVIĆ observed that the Committee was not in a position to settle the question of scheduling at the current meeting, but by the end of the week would have a better idea if less time could be allotted to the report of Sweden. In the meantime, the Bureau should also be giving thought to how Mrs. Higgins's request might be accommodated.

24. Mr. EL-SHAFEI concurred and noted that a part of the next meeting would presumably be given over to the consideration of communications.

25. The CHAIRMAN said that he would take it, if he heard no objection, that the Committee wished to adopt the proposed programme of work, on the understanding that an additional meeting should be made available for the consideration of communications, if possible.

26. It was so decided.

27. The CHAIRMAN invited the Chairmen of the two Working Groups to report on the activities of the Groups prior to the current session of the Committee.

28. Mrs. HIGGINS, Chairman/Rapporteur of the Working Group on communications, listed the members of the Working Group and explained that they had studied at length an important working paper on the status of Jamaican communications. The Working Group's conclusions had been distributed that morning. The Working Group had had before it 22 draft recommendations and decisions concerning some 25 communications. It had declared 10 communications admissible, recommended that 5 be declared inadmissible and considered five recommendations for adoption of final views concerning seven cases. It had deferred consideration of two cases pending the receipt of further clarification from the State party and the author concerned.

29. Ms. CHANET, Chairman/Rapporteur of the Working Group on article 40 of the Covenant, listed the membership of the Working Group and explained that the Group had endeavoured to finalize the lists of issues to be raised with the States when their reports were taken up by the Committee at the current session, and to discuss a draft of a general comment on article 10. The lists of issues were now finalized with regard to the reports of Sweden, Panama, Sri Lanka and the United Kingdom. The list of issues on the second periodic report of India, also scheduled to be taken up at the current session, had already been adopted by the Committee. For the first time, the Working Group had worked on the basis of lists of issues prepared in advance by the secretariat, which had greatly facilitated its task and made for a more thorough study of the issues.

30. There had been slight changes to her proposed text for a general comment on article 10 and the Working Group would need one more short meeting in order to complete its consideration of the matter.

31. The CHAIRMAN said that an effort would be made to afford the Working Group time for such a short meeting.

Lists of issues to be taken up in connection with the consideration of reports submitted by the States parties in conformity with article 40 of the Covenant

Third periodic report of Sweden (CCPR/C/58/Add.7)

Sections I and II

32. Sections I and II were adopted.

Section III

33. Mr. SADI said he had doubts about the priority being given to the HIV virus in section III, when there were many other diseases that were equally life-threatening. He also wished to know whether the version before the Committee was a preliminary or a final list of issues.

34. The CHAIRMAN explained that lists of issues, once approved by the Working Group, were sent to the Mission of the State party concerned. The Committee could, if necessary, make changes, but they should normally be minor.

35. Ms. CHANET, Chairman/Rapporteur of the Working Group on article 40, agreed that there were other life-threatening illnesses, but few had been on the scale of AIDS. It was a matter which came up frequently in the Working Group's consideration of the right to life. She personally had no strong views on whether the section should specifically mention human immunodeficiency virus (HIV).

36. Mr. SADI suggested that the section might use some formulation such as "the spread of diseases and epidemics, especially AIDS." As a separate issue under the same section, he raised the question of when life actually started, and whether the foetus had a right to life. He suggested that the Committee might wish to consider that issue and include it under section III.

37. Ms. CHANET, Chairman/Rapporteur of the Working Group on article 40, said that she would have no objection to some such wording on the AIDS issue. The right to life of a foetus had, to her knowledge, never been discussed by the Committee under the heading of the right to life.

38. Mr. SADI wished to stress that he had no personal view on abortion, although he did feel that a foetus had a right to life. He merely wished to give the Committee the opportunity to define the point at which life began, and was therefore proposing it as a separate issue.

39. Mr. LALLAH said that it would be preferable to deal with the question of the right to life of a foetus in a general comment rather than in a list of issues.

40. Mr. PRADO VALLEJO said that the question on AIDS should be couched in more general terms, the more so as the AIDS epidemic was certainly not specific to Sweden.

41. Mr. HERNDL supported the suggestion that the rights of the unborn child should be discussed, but agreed that the question should be dealt with in a general comment. Broadening the question about AIDS might make it more difficult for the representative of Sweden to respond when Sweden's report was examined by the Committee.

42. Ms. CHANET, Chairman/Rapporteur of the Working Group on article 40, repeated that she had no objection to a broader wording, although she agreed with the warning expressed by Mr. Herndl on possible difficulties for the Swedish representative.

43. Mr. SADI said that he intended to ask the representative of Sweden about that country's policies on abortion, which would immediately face the Committee with the issue of the right to life of a foetus. There was therefore a pressing need for the Committee to examine the question.

44. Mr. EL-SHAFEI recalled that the Chairman had stated that members were at liberty to add questions of their own during the Committee's dialogue with the representatives of the States parties, and that in consequence anyone who wished to raise the question of the rights of the unborn child could do so without its being on the list of issues. With regard to the wording of section III, he pointed out that only the AIDS epidemic was relevant to the current situation in Sweden and there was therefore no point in asking for information about other epidemics. The list of issues should be as precise as possible.

45. Mr. DIMITRIJEVIĆ said that the issue of AIDS and epidemics in general was more complex than it might appear. The Committee needed to consider whether, for example, a question about AIDS should be asked of all countries or only of some. The AIDS epidemic raised human rights questions, such as discrimination or freedom of movement, which went beyond the right to life, and he therefore felt that it was wrong to place the question about AIDS in section III. He proposed that the question should be deleted until the Committee had a clearer picture of what was being done with regard to the human rights aspects of AIDS.

46. The Committee had in the past questioned various Governments as to their views on the right to life of a foetus, and many of them had explained that under their legislation abortion was permissible up to a certain point in the pregnancy and not beyond it. Perhaps the Committee should study such replies and on that basis make a review of their general comment on article 6 of the Covenant. He had no objection to adding to the list of issues a question on abortion laws, but posing the question in terms of the right of a foetus to life was itself an expression of bias, since the issue also affected the rights of women.

47. The CHAIRMAN suggested that section III should be deleted in its entirety.

48. It was so decided.

Sections IV to X

49. Sections IV to X were adopted.

50. Mr. PRADO VALLEJO said that it was normal practice for the Committee to include in the list of issues a question regarding the State party's position and the action it had taken with respect to the Committee's final comments on specific issues.

51. The CHAIRMAN said that it had been the Committee's practice to include a question of that nature in the first section of the list of issues. He suggested that the Committee should ask the secretariat to look into the matter and, if there were final comments to which Sweden had not responded, an appropriate question could be included in section I.

52. It was so decided.

Third periodic report of the United Kingdom of Great Britain and Northern Ireland (CCPR/C/58/Add.6 and 11)

Section I

53. Mr. WAKO said that he was not sure that the Committee had given adequate consideration to the way in which the Covenant would apply to Hong Kong after 1997, and he proposed that a question on that point should be included in section I.

54. Mr. DIMITRIJEVIĆ said that, to a certain extent, Mr. Wako's concern was reflected in paragraph (e). The question regarding Hong Kong's reporting obligations after 1997 could be included in an additional section at the end of the list of issues, which would be entitled "Reporting obligations".

55. Mr. EL-SHAFEI said that Mr. Dimitrijević had raised a point which had been discussed in the Working Group on article 40. At that time, he had suggested that the Chairman, in his concluding remarks on the third periodic report of the United Kingdom, could suggest a date before 1997 by which the United Kingdom should report on Hong Kong.

56. The CHAIRMAN said that the Committee would be considering the United Kingdom's next report in 1994.

57. Mrs. HIGGINS said that the United Kingdom would be prepared to answer the question whether or not it was included in the list of issues.

58. Mr. WAKO said that the question should be included in the list of issues as a separate section, as Mr. Dimitrijević had suggested, in order to indicate to the State party that the Committee attached particular importance to the issue.

59. Mr. MYULLERSON said that he doubted whether it would be necessary to add a separate section regarding the United Kingdom's reporting obligations with respect to Hong Kong after 1997. The Committee could raise the matter during its consideration of the United Kingdom report.

60. Mr. LALLAH said that the Committee could include the question in paragraph (e). The question could read: "Have any arrangements been considered to ensure the reporting obligations of Hong Kong after 1997?".

61. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to amend paragraph (e) in the manner proposed by Mr. Lallah.

62. It was so decided.

63. Section I, as orally amended, and section II were adopted.

Section III to IX

64. Mr. SADI said that Amnesty International had reported that the United Kingdom had recently detained the nationals of certain countries for extended periods of time without formally charging them, and a question on that matter should be included in section III.

65. The CHAIRMAN said that it was the practice of the Committee for individual members to raise questions orally regarding information obtained from non-governmental organizations.

66. Sections III to IX were adopted.

Section X

67. Mr. PRADO VALLEJO said that a specific question regarding the United Kingdom's current immigration policy should be included as paragraph (b).

68. Ms. CHANET said that the Working Group had not considered it necessary to include a specific question on immigration in the current list of issues. However, individual members of the Committee could ask questions on that subject.

69. Mr. PRADO VALLEJO said that he had suggested the inclusion of the question in order to enable the United Kingdom to come prepared to answer the question.

70. Section X was adopted.

Sections XI to XIV

71. Mr. WAKO said that he was not sure whether the United Kingdom's third periodic report provided details, particularly with respect to Hong Kong, regarding the circumstances which warranted a breach of the right to privacy, and he proposed that a question on that point should be included under section XI.

72. Ms. CHANET said that the question should not single out Hong Kong but should apply to all of the United Kingdom's dependent territories.

73. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee agreed to amend section XI as proposed by Mr. Wako and Ms. Chanet.

74. Section XI, as orally amended, and sections XII to XIV were adopted.

The meeting rose at 1 p.m.